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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/707,885	11/08/2000	Giovanni Chiavarotti	2000 1545	1381

7590 05/22/2002

WENDEROTH, LIND & PONACK, L.L.P.  
2033 "k" Street, N.W. Suite 800  
Washington, DC 20006

EXAMINER
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RUTHKOSKY, MARK

ART UNIT	PAPER NUMBER
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1745

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DATE MAILED: 05/22/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicati n No.

09/707,885

Applicant(s)

CHIAVAROTTI ET AL.

Examin r

Mark Ruthkosky

Art Unit

1745

-- The MAILING DATE of this communication appears on the cover sheet with the c rrespondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 November 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 15-20 is/are pending in the application.
- 4a) Of the above claim(s) 16 and 17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15 and 18-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☒ Certified copies of the priority documents have been received in Application No. 09/357,300.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) 5.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Response to Amendment***

The pre-amendment filed on 6/1/2001 is noted. The applicant has canceled claims 1-14 and 21-31.

### ***Priority***

1. This application is a division of Application No. 09/357,300, filed 7/20/1999 as stated in the amendment filed 6/1/2001. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent application.

### ***Information Disclosure Statement***

2. The information disclosure statements filed 11/8/2000 and 11/8/2001 have been placed in the application file, and the information referred to therein has been considered as to the merits.

### ***Election/Restrictions***

3. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 15-17, drawn to an electrolytic capacitor, classified in class 361, subclass 516.
- II. Claims 15, 18-20, drawn to a battery, classified in class 429, subclass 209.

The inventions are distinct, each from the other because of the following reasons:

4. Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different

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functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different functions, different effects and different modes of operation.

5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

6. During a telephone conversation between Examiner Eric W. Thomas and Mr. Mike Davis on 6/29/2001 a provisional election was made with traverse to prosecute the invention of II, claims 15 and 18-20. Affirmation of this election must be made by applicant in replying to this Office action. Claim 16-17 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

#### *Claim Objections*

MR 5/02  
8. Claim <sup>15</sup>~~18~~ is objected to because of the following informalities: Claim <sup>15</sup>~~18~~ is to an electrode suitable for an electrolytic capacitor or a battery. Due to the election of a battery by the applicant as previous discussed, the claim should be amended to disclose use in a battery. Appropriate correction is required.

***Specification***

9. The abstract of the disclosure is objected to because the contents of the abstract should correspond to the elected invention of a battery. Correction is required. See MPEP § 608.01(b).

10. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The title should correspond to the elected invention of a battery.

***Claim Rejections - 35 USC § 102***

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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12. Claims 15 and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamada et al. (US 5,723,232.)

The instant claims are to a battery comprising a negative electrode including a substrate and an impermeable or substantially impermeable conductive layer of graphite on the substrate.

Yamada et al. (US 5,723,232) teaches a carbon electrode for a non-aqueous secondary battery wherein an electrode comprises a substrate with a layer of graphite added to the substrate. For example, the material is prepared by forming a slurry including graphite and a polymeric binder (col. 6, lines 20-30). The slurry is added to both sides of a nickel substrate and the material was dried at elevated temperatures. The electrode was further heat-treated at high temperatures (see examples 1-2, 8 and comparative example 2.) This method is provided in the

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instant application in order to prepare the impermeable or substantially impermeable conductive layer of graphite on the substrate. As the methods are the same, the materials of the prior art reference must also inherently be impermeable or substantially impermeable.

With regard to claim 19, figure 6 shows a battery wherein the case is provided as positive and negative connectors. The electrodes include graphite. The electrodes and corresponding case elements are in contact to transfer electrical charge.

With regard to claim 20, the battery may be lithium as shown throughout the reference, and specifically in claim 8. Example 16 shows the negative electrode to be opposite positive electrodes and layered with separators in between. Figure 6 shows a battery wherein the case is provided as positive and negative connectors. The electrodes and corresponding case elements are in contact to transfer electrical charge.

As each limitation of the claims is met by the reference, the claims are anticipated.

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### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited art does not read upon the instant claims, however, the references include general teachings and relevant features as to the state of the art at the time of the invention.

### ***Examiner Correspondence***

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1193. Any inquiry concerning this communication or earlier communications from the examiner should be directed

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to Mark Ruthkosky whose telephone number is 703-305-0587. The examiner can normally be reached on FLEX schedule (generally, Monday-Thursday from 9:00-6:00.) If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached at 703-308-2383.

The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

MARK RUTHKOSKY  
PATENT EXAMINER  
ART UNIT 1745  
Mark Ruthkosky  
5/17/2002